THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (M/B) No. 85 of 2002

Prasant Sarkar S/O Sri Subal Sarkar, R/O Dev Nagar (Shakti Farm No.-3) R/O Shakti Farm, Tehsil-Sitarganj, District Udham Singh Nagar.

… **Petitioner.**

Versus

1. District Magistrate, Udham Singh Nagar.
2. Tahsildar, Tahsil Sitarganj, District Udham Singh Nagar.
3. State Bank of India, Branch Shakti Farm, through its Branch Manager, District Udham Singh Nagar.

… **Respondents.**

Sri S.K.Mandal, Adv., learned counsel for petitioner.
Sri K.P.Upadhyay, Learned Standing Counsel for the State-respondents 1 & 2.
Sri Ashish Kumar Joshi, Adv., learned counsel for the respondent no.3.

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

Date August 18, 2006.

Heard learned counsel for the rival parties and perused the entire material on record.

By means of this writ petition, the petitioner has sought for quashing the impugned recovery citation dated 04-02-2002 (Annexure No. 3 to the writ petition) issued by the respondent no.2. A prayer for mandamus of the Court directing the respondent nos. 1 and 2 not to recover the disputed amount as arrears of land revenue.

Relevant facts are that the petitioner took a loan of Rs. 80,000/- from the respondent Bank on 1-3-1999 as D.I.C. loan in order to meet capital requirements, which was repayable with interest @ 14% with monthly rest or as provided and notified by the Reserve Bank of India. The petitioner got his business registered in the Industry Department of the State Government in the name and

style ***M/s Pooja Handloom Udyog.*** It has been stated that the petitioner deposited sum of Rs. 1250/- per month thereby paid Rs. 8,000/- by 20-11-2000. It has been said that due to loss suffered by the petitioner in the business, he could not deposit regular monthly instalments, but before the expiry of stipulated time of seven years, the Recovery Certificate under challenge was issued by Respondent No.3, which is Annexure No.3 to the writ petition.

It was contended by the petitioner that the respondents cannot recover the outstanding loan amount as arrears of land revenue, but the learned counsel for the petitioner has not advanced any arguments on this point.

In the course of arguments, the learned counsel for the petitioner submitted that the petitioner is willing and ready to repay the entire outstanding amount under the impugned recovery citation (**Annexure-3**) in easy instalments and prayer has been made that the writ petition be disposed of finally. It was also pointed out by the learned counsel for the petitioner that an amount of Rs. 40,000/- had already been in deposit in compliance of Court's order dated 11.03.2002. Learned counsel for the respondent Bank has no objection if the entire amount under the recovery citation is paid up along with recovery charges within a period of one year.

Having considered the submissions of the learned counsel for the petitioner and the respondent Bank, it will be expedient in the interest of justice to direct the petitioner to repay the entire amount under the impugned recovery citation (Annexure No.3) in four equal quarterly instalments before the Recovery Officer, the respondent no. 2 along with recovery charges. The first quarterly instalment shall fall due on the 1st day of September, 2006 and the subsequent instalment shall fall due on the first day after every three months. The record shows that the petitioner had already deposited a sum of Rs. 40,000/- in this Court as per order dated

11.03.2002. The respondents may withdraw this amount, which shall be adjustable towards payment of amount by the petitioner under the impugned recovery citation.

The Writ Petition is disposed of finally with the observation that the petitioner is directed to deposit the entire amount of recovery citation (Annexure No.3 to the writ petition) in four equal quarterly instalments commencing from 01-09-2006 before the Recovery Officer-respondent no.2 along with recovery charges and the amount of Rs. 40,000/- already deposited in the Registry shall be adjusted towards payment by the petitioner. In case of default in payment of any of the instalments, the respondents shall be at liberty to recover the amount outstanding amount in lump sum from the petitioner

(B.S. Verma, J.) **(P.C. Verma, J.)**

RCP